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PATRICK E. DUFFY, CLERK

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
(Billings Division)**

CANDACE WISNIEWSKI,

Cause No. *W-09-28-BLK-RFC-CSO*

Plaintiff,

**COMPLAINT AND REQUEST
FOR JURY TRIAL**

vs.

TOWN OF COLUMBUS, the
COLUMBUS POLICE DEPARTMENT,
GARY WOLTERMANN and WILLIAM
PRONOVOST, individually and as agents,

Defendants.

Plaintiff alleges as follows:

GENERAL ALLEGATIONS

Parties

1. Plaintiff Candace Wisniewski is currently a resident of the city of Livingston, Park County, Montana, and was formerly employed by the defendants as hereinafter set forth.

2. The Defendant Police Department serves under the auspices of the Defendant

Town of Columbus, a political subdivision of the state of Montana, and said public entities were Plaintiff's employers, as herein stated. Defendants Woltermann and Pronovost serve as the mayor and chief of police, respectively, for the defendant entities and, in all of their actions complained of herein, said defendants acted for themselves and as agents on behalf of the defendant public entities.

3. Plaintiff is informed and believes that certain other administrators, officials, agents and/or employees of the defendant entities may have ratified or approved the acts and/or omissions of the other responsible personnel and/or may otherwise be legally responsible, in some manner, for the wrongful conduct herein alleged. If warranted, Plaintiff will ask that this complaint may be amended to include said defendants, together with apt and proper words to charge them.

Jurisdiction and Venue

4. This court has original jurisdiction over this action under the federal Fair Labor Standards Act ("FLSA"), 29 USC §215(a) et seq.

5. Venue is proper in this judicial district since the individual and government defendants are located here; the employment relationship which is the subject of this litigation was performed here, and the wrongful acts or omissions which are the subject of this litigation occurred within this judicial district within the meaning of 28 USC §1391.

Facts Common to All Counts

6. Plaintiff was initially hired by the Columbus Police Department on a part-time

basis in August of 2006 and, in February of 2007, she assumed a full-time officer's position. Approximately one year after her initial date of hire, Plaintiff received a satisfactory performance evaluation, at which time Defendant Pronovost characterized her as "a good officer."

7. During a staff meeting in approximately mid-November of 2007, however, Plaintiff raised the issue that she and certain other officers were not being sufficiently credited with "comp time" during mandatory training sessions. In response, Defendant Pronovost became visibly upset; maintaining that the Department was exempt and not required to pay overtime due to its relatively small size, and he concluded his remarks with a stern admonition.

8. On December 27, 2007, Plaintiff was suddenly and unexpectedly presented with a take-it-or-leave-it ultimatum to resign or be fired, which included a threat that she would be blackballed if she failed to comply with this demand.

9. Any reasons eventually offered by Defendants Woltermann and Pronovost, in an attempt to justify their actions, were a pretext

10. The U.S. Department of Labor thereafter determined that the Town of Columbus and its police department were not exempt from, and must reimburse, the compensation pertaining to the work issue Plaintiff had reasonably, and justifiably, raised during the November 2007 meeting, as aforesaid.

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CAUSE OF ACTION

11. Plaintiff incorporates by reference all of the General Allegations, as though set forth here in full.

12. As set forth hereinabove, Plaintiff made a good faith report of what she reasonably perceived as, and which in fact was, a violation of the FLSA.

13. The defendants thereafter engaged in retaliation against Plaintiff which culminated in the wrongful termination of her employment relationship, in violation of 29 USC §215(a)(3), as aforesaid.

14. As a direct and proximate result of the adverse actions taken against Plaintiff Wisniewski, culminating in the unwarranted termination of her employment, she has suffered, and continues to suffer, a substantial loss of income, fringe benefits and other valuable job rights, all to her damage in a sum according to proof at the time of trial.

15. As a further result of this reprisal against her, Plaintiff has suffered a loss of self-esteem, corresponding damage to her reputation, emotional distress and humiliation, all to her general damage according to proof.

16. The above-described conduct of the individual defendant officials was aggressive, fraudulent and malicious, thereby entitling Plaintiff to an award of punitive damages in an amount appropriate to punish or set an example of said defendants.

17. Plaintiff further requests, and is entitled to, an award of those attorney's fees necessarily incurred on her behalf, as an integral part of her recovery, pursuant to 29 USC

§216(b).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against the defendants, and each of them, as follows:

1. For a money judgment representing compensatory damages, including lost earnings, and the value of any related employee benefits, present and future, together with accrued interest thereon, according to proof;
2. For general damages, according to proof;
3. For an appropriate award of punitive damages;
4. For an award of reasonable attorney's fees pursuant to statute;
5. For those recoverable costs and expenses of the suit herein incurred, and
6. For any other and further relief, legal and/or equitable, as the court may deem just and proper.

DATED: 3/10/09

Respectfully Submitted,

LAW OFFICE OF
MICHAEL J. SAN SOUCI

By:




Michael J. San Souci
Attorney for Plaintiff
Candace Wisniewski

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DEMAND FOR JURY TRIAL

Plaintiff, by and through her undersigned counsel, herein respectfully requests
a trial by jury on all issues in this proceeding as allowed by law.

By:



MICHAEL J. SAN SOUCI

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